IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO : 18222 of 2002

Between:

S. Ramthumiah, E.107174, R.T.C. Conductor,

Near Sambamurthy Street,

Gandhi Nagar, Badvel Post,

Cuddapah District.

..... PETITIONER

AND

1. The A.P.S.R.T.C. represented by its Chairman and Managing Director,

Musheerabad, Hyderabad.

2. The A.P.S.R.T.C. represented by its Regional Manager, Cuddapah Region, Cuddapah District.

3. The A.P.S.R.T.C. represented by its depot Manager, Badvel Depot, Badvel Post, Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order or direction or Writ particularly one in the nature of Writ of Mandamus declaring the action of the second respondent passed an Order- Cum-Notice by its proceedings No.02/95(34)/99-BDVL, dt.24-09-1999 “that your annual increment which next falls due be deferred for a period of two years which shall not have the affect on your future increments. Further you are hereby called upon to show cause as to why your suspension period from 04-06-1999 till you report for duty for the purpose of leave and increments is wholly illegal, arbitrary unjust and contrary to law

and also violative of Art.14, 16 and 21 of the Constitution of India and also violative of principles of natural justice and consequently direct the respondents to pay his increments of leave and increments and to pay his arrears and other attendant benefits.

Counsel for the Petitioner: MS. B. MALLESWARI

Counsel for the Respondents: MR. P. VINAYAKA SWAMY

The Court made the following:

ORDER:

Petitioner is a Conductor working in the respondent Corporation. He questions the order dated 24-09-1999 issued by the third respondent Depot Manager in imposing punishments for the charges alleged and proved against the petitioner, deferring the annual increments for a period of two years, without having cumulative effect and also in issuing show cause notice as to why his suspension period from 04-06-1999 till he reports to duty, on lifting suspension, should not be treated as not on duty for the purpose of leave and increments.

2. The contention of the learned counsel appearing for the petitioner is that the said punishment is a major punishment and without conducting a regular domestic enquiry, imposing such punishment is illegal and unwarranted. It is further stated that the period of suspension from
04-06-1999 till the date of his joining report, was illegally sought to be treated as not on duty for the purpose of awarding increments and, it is a double punishment and, therefore, it is un-sustainable in law.

3. In so far as the first contention is concerned, the petitioner was placed under suspension by proceedings dated 04-06-1999 and also a charge sheet issued on the same date i.e. on 04-06-1999 and served to the petitioner, framing the following charges—

> CHARGE: 1. For having failed to follow the rule" issue and Start" while conducting bus No.1550 on the route Badvel to Muthukur on 27-5-99 when checked by the TTIs at 18.50 hrs., which constitutes misconduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Reg.1963".
>
> CHARGE: 2. For having issued one unpunched ticket of
> Rs.2-50 denomination bearing No: 363/6125173 you after collecting requisite fare from a passenger found traveling from Peddakamasamudram to Vemalur (ex-stages 6 to 7) when only one passenger boarded the bus at state No.6 out of two in all, available in your bus at the time of check, with a motivation of malafide intention to defraud the revenue of corporation which constitutes misconduct under Reg.28

(xxxii) of APSRTC Employees (Conduct) Reg.1963".

4. The petitioner was given a time of seven days for filing explanation. After filing the explanation a regular domestic enquiry was conducted and the Enquiry Officer submitted his report dated 23-08-1999. The Enquiry Officer held that the charges levelled against the petitioner were proved. But however, so far as the imposing of punishment is concerned, the third respondent has taken a lenient view by issue of an aforesaid order dated 24-09-1999 imposing punishment on the petitioner deferring annual increments for a period of two years without having any cumulative effect and issued a show cause notice to submit his explanation as to why the suspension period from 04-06-1999 till he reports to duty and lifting the suspension, should not be treated as not on duty for the purpose of leave and increments. The petitioner states that he has filed an explanation on 06-01-2000.

5. A perusal of the explanation dated 06-01-2000 submitted by the petitioner, it is clear that he has grievance only about the imposition of punishment of stoppage of increment for a period of two years without cumulative effect. As the imposition of the said punishment is not a major punishment and as per the regulations, no show cause notice is required to be issued before imposing a minor punishment. Therefore, I am of the opinion that imposing of such a minor punishment deferring annual increment for a period of two years without conducting enquiry is not a major punishment and it was rightly imposed based on the enquiry report submitted by the Enquiry Officer.

6. In so far as the proposed action not to treat the suspension period as not on duty, no explanation was filed, therefore, the third respondent passed an order dated 29-09-2001 stating that the suspension period of the petitioner from 04-06-1999 till he reports to the duty on lifting suspension should not be treated as not on duty for the purpose of leave and increments. The petitioner has not challenged the order dated 29-09-2001. The learned Counsel for the respondents also produced the file and also the acknowledgment of the receipt of the order dated
29-09-2001 acknowledged by the petitioner. Without questioning the order dated 29-09-2001 with regard to treating the suspension period as not on duty, no relief can be granted in this writ petition.

7. Accordingly, the writ petition is dismissed. No costs.

V. ESWARAIAH, J

Dt.17-09-2004

Glv/DA

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to

1. The Chairman and Managing Director,
Andhra Pradesh State Road Transport Corporation,

Musheerabad, Hyderabad.

2. The Regional Manager,
Andhra Pradesh State Road Transport Corporation,

Cuddapah Region, Cuddapah District.

3. The Depot Manager,
Andhra Pradesh State Road Transport Corporation,

Badvel Depot, Badvel Post, Cuddapah District.

4. Two C D copies.